

Meeting of 2009-1-27 Regular Meeting

MINUTES

LAWTON CITY COUNCIL REGULAR MEETING
JANUARY 27, 2009 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor John P. Purcell, Jr. Also Present:
Presiding Larry Mitchell, City Manager
 Frank Jensen, City Attorney
 Traci Hushbeck, City Clerk
COL Robert Bridgford, Fort Sill Liaison

Mayor Purcell called the meeting to order at 6:06 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Councilmember Bill Shoemate, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT: Bill Shoemate, Ward One
James Hanna, Ward Two
Janice Drewry, Ward Three
Jay Burk, Ward Four
Robert Shanklin, Ward Five (Arrived @ 6:29 p.m.)
 Stanley Haywood, Ward Seven
 Randy Warren, Ward Eight

ABSENT: Jeff Patton, Ward Six

PRESENTATION OF OKLAHOMA MUNICIPAL LEAGUE HONOR ROLL OF SERVICE.

(Presentation was postponed due to weather)

AUDIENCE PARTICIPATION: None.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF DECEMBER 16, 2008.

MOVED by Hanna, SECOND by Warren, to approve the minutes of the Lawton City Council regular meeting of December 16, 2008. AYE: Drewry, Burk, Haywood, Warren, Shoemate, Hanna. NAY: None. MOTION CARRIED.

CONSENT AGENDA: The following items are considered to be routine by the City Council and will be enacted with one motion. Should discussion be desired on an item, that item will be removed from the Consent Agenda prior to action and considered separately.

Mayor Purcell requested item #14 be considered separately.

MOVED by Drewry, SECOND by Haywood, to approve the Consent Agenda with the exception of item 14. AYE: Burk, Haywood, Warren, Shoemate, Hanna, Drewry. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for approval and consider passage of the resolution authorizing the City Attorney to file a friendly suit for the claims which are over \$400.00: James and LuAnn Powers in the amount of \$4,128.50 **(Res. 09-09)** and Joseph and Leonor Rios in the amount of \$5,643.48 **(Res. 09-10)**. Exhibits: Legal Opinions/Recommendations, Resolution No. ____ and Resolution No. ____.

2. Consider authorizing the City Attorney to accept the sum of Four Thousand Five Hundred and 00/100 Dollars (\$4,500.00) for settlement of the City's subrogation interest in the personal injury case of Ronald Dimmitt. Exhibits: None.

3. Consider adopting a resolution approving the settlement by a joint petition and making payment in the pending workers' compensation claim of Asa Hursey. Exhibits: **Resolution No. 2009-11.**
4. Consider leasing City land at Lake Lawtonka to the Board of Commissioners of Comanche County for a radio transmission tower. Exhibits: Lease Agreement (on file in the City Clerk s Office).
5. Consider adopting a resolution approving the settlement by a joint petition and making payment in the workers compensation claim of Jorge Macias. Exhibits: **Resolution No. 2009-12.**
6. Consider ratifying Council s action taken on January 13, 2009 to provide \$1000.00 from the Council Contingency Fund to the Salvation Army to fund the purchase of beds and authorize Finance to prepare a check to the Salvation Army. Exhibits: None.
7. Consider approving contracts for Children s Art Studio , Spring 2009 semester for Steven Scott Smith (\$ 675), Lawrence Johns (\$ 540), Kenneth Hobbs (\$ 270), and Sandra Dunn (\$ 315) instructors for the program. Total amount for fall semester stipends is \$ 1,800.00. Exhibits: Contracts on file in City Clerk s office.
8. Consider accepting State Aid for Libraries grant of \$65,882 from the Oklahoma Department of Libraries for FY 2008-2009. Exhibits: State Aid agreement on file in the City Clerk s office.
9. Consider the application of an ICMA Public Library Innovation Grant. Exhibits: Copy of the grant application is on file in the City Clerk s office.
10. Consider accepting donation of two guns contributed by the Langfitt family to be used for the Lawton Police Department training and equipment needs. Exhibits: None.
11. Consider approving the Blanket Purchase Agreement (BPA) for the rental of the McMahon Memorial Auditorium for 434th Brigade IET/AIT rehearsals and graduation ceremonies, Fort Sill, Oklahoma, and authorize the Mayor and City Clerk to execute the agreement. Exhibits: Blanket Purchase Agreement on file in City Clerk s Office.
12. Consider approving an Enterprise License Agreement (ELA) with Environmental Systems Research Institute (ESRI) for Enterprise Software to be utilized throughout the City s Geographical Information System (GIS). Exhibits: ESRI Small Municipal and County Enterprise License Agreement (E214 6/08B) on file in City Clerk s Office. Sole Source Justification for Small Municipal and County Enterprise License Agreement.
13. Consider approving contract amendment No. 1 for the Surface Sub-lease Contract between the City and Lance John and authorize reimbursement for pro-rated rent. Exhibits: Amendment No. 1 is on file at the City Clerk's office.
14. Consider approving the record plat for Wyatt Acres Addition, Part 15, and accepting the improvements, escrow agreement in lieu of completion of minor improvements, maintenance bonds, and easements outside the platted area. Exhibits: Plat Map. Escrow Agreement, Maintenance Bonds, and Easements on file in City Clerk s Office

Richard Rogalski, Planning Director, stated all of the items that were required did not come in and staff would like to add them as conditions to the approval. Those conditions are the submission of an escrow agreement in lieu of completion of minor improvements, submission of a maintenance bond in the amount of \$37,500 for water and sewer improvement, submission of the restricted covenants for the subdivision and submission of the executed easement documents for the improvements outside the platted area. He stated that staff does recommend approval with these conditions. He stated the record plat will not be forwarded for signature until these items are addressed.

Jensen stated they would like to have that authorization in lieu of imposing a deadline which will make it easy to enforce.

MOVED by Warren, SECOND by Shoemate, to approve the record plat for Wyatt Acres Addition, Part 15, and accepting the improvements, escrow agreement in lieu of 1) submission of an escrow agreement in lieu of completion of minor improvements, 2) submission of a maintenance bond in the amount of \$37,500 for water and sewer improvement, 3) submission of the restricted covenants for the subdivision and 4) submission of the executed easement documents for the improvements outside the platted area. AYE: Haywood, Warren, Shoemate, Hanna, Drewry, Burk. NAY: None. MOTION CARRIED.

15. Consider acknowledging receipt of Tier I permits from the Oklahoma Department of Environmental Quality for the construction of 2,625 linear feet of 8-inch waterline and 2,575 linear feet of 8-inch PVC sanitary sewer line and all appurtenances to serve Dove Creek Addition, Part 2 located west of SW 52nd Street, north of Bishop Road in

the SE/4 of Section 4, T1N, R12W, Comanche County, Oklahoma. Exhibits: Permits to Construct on file in the City Clerk's Office.

16. Consider acknowledging receipt of Tier I permit from the Oklahoma Department of Environmental Quality for the construction of emergency overflow lagoon and all appurtenances to serve Sungate Addition, Part 10, located approximately mile east of SE 45th Street and approximately mile north of Lee Boulevard in the SW/4 of Section 35, T2N, R11W, Comanche County, Oklahoma. Exhibits: Permit to Construct on file in the City Clerk's Office.

17. Consider awarding (CL09-027) Laboratory Services of Toxic Pollutants to Accurate Environmental Labs of Stillwater, OK. Exhibits: Department recommendation, abstract of bids.

18. Consider rejecting bids for (RFPCL09-012) Non-Exclusive Recycling Center Operation. Exhibits: Department Recommendation.

19. Consider approving appointments to boards and commissions. Exhibits: None.

20. Consider approval of payroll for the period of January 12 - 25, 2009.

BUSINESS ITEMS:

21. Hold a public hearing to consider Change 2 to the Consolidated One-Year Action Plan for FFY 2006, receive input from citizens, and authorize the Mayor and City Clerk to execute the implementing documents. Exhibits: The Consolidated One-Year Plan for FFY 2006 and Change 2 to the plan is available for review in the City Clerk's Office.

Tim Libby, Grants and Fiscal Officer for Housing and Community Development, stated this is an administrative change. When they wrote the 2006 consolidated plan, in that they included that the City may at some point in time request money through section 108 and through the Brownfields Economic Development Initiative (BEDI). This document will change to say that yes, not only did the City request that, we put in the application that we now have a contract with HUD and have been granted the \$1.9 million and we have received the \$1 million for the BEDI grant. All of those have been approved and we are including those, by reference, in that original 2006 document because that is when the City began that process. Section 108 and BEDI are covered under CDBG regulations, so to spend that money we have to use those regulations and this is the document that implements those regulations within the City of Lawton. With the 108 loan, initially the application just called for the streetscape and now they are going to include the actual road and because of that, that is what they call a change in scope and they are required to include that in a change to our consolidated planning process. With the BEDI, this is just including that in the plan as reference. The phasing of the actual project has changed. They have changed the size of the phases and where they will start. This is also a scope change and they have to include that in the plan.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

Jensen stated he has made a recommendation to Councilmember Warren to abstain. He questioned if five affirmative votes would be sufficient to pass.

Libby stated a majority will be sufficient.

Shoemate recommended they look at something other than crepe myrtles for the landscaping.

Mitchell stated he would look at the plans.

MOVED by Drewry, SECOND by Haywood, to approve Change 2 to the Consolidated One-Year Action Plan for FFY 2006 and authorize the Mayor and City Clerk to execute the implementing documents. AYE: Haywood, Shoemate, Hanna, Drewry, Burk. NAY: None. ABSTAIN: Warren. MOTION CARRIED

22. Consider an ordinance amending Sections 17-3-4-332, 333, 343, 344, 349, Division 17-3-4, Article 17-3, Chapter 17, Lawton City Code, 2005, by amending the personnel policies and procedures affecting the City of Lawton retirement plan, providing for severability, and declaring an emergency. Exhibits: Ordinance 09-__.

Jensen stated these are extensive changes that we are required to make to the retirement system. They were drafted by a tax attorney hired by the Pension Trust Commissioners. These changes must be made to comply with IRS regulations. Staff is completely comfortable with the changes and there are no changes in benefits. The attorney has added new IRS regulation language to keep the system up to date and in compliance.

MOVED by Warren, SECOND by Shoemate, to adopt **Ordinance 09-03** waive the reading of the ordinance, read the title only, and declaring an emergency. AYE: Haywood, Warren, Shoemate, Hanna, Drewry, Burk. NAY: None. MOTION CARRIED

An ordinance pertaining to personnel policies and procedures amending Sections 17-3-4-332, 333, 343, 344, 349, Division 17-3-4, Article 17-3, Chapter 17, Lawton City Code, 2005, by amending the consolidation of existing system and preservation of rights; definitions; restrictions on benefits to conform to IRS requirements; mandatory distributions; and rollover to another plan or IRA, providing for severability, and declaring an emergency.

23. Discuss and consider authorizing mid-year financial assistance to the Great Plains Museum in the amount of \$5,000 (Five Thousand Dollars) to support their request for employee wage and benefit adjustments and take appropriate action as deemed necessary. Exhibits: August 12, 2008 (Approved) Agenda Item #26.

Drewry stated they have talked about the museum before and they really got overlooked in the budget process. She is on the museum board and those employees work very hard and they have discussed their salaries and how far behind they really are. She hopes that the City Council will consider using this \$5,000 to bring their salaries up slightly.

Hanna questioned if they were a separate entity from the City.

Mitchell stated yes.

Jensen stated we currently have a limited services agreement with the museum which will need be amended to include the \$5,000.

Mitchell stated the employees have received a couple of cost of living increases, but they have not had any step increases for a number of years.

MOVED by Drewry, SECOND by Warren, to authorize mid-year financial assistance to the Great Plains Museum in the amount of \$5,000 from the Council Contingency Fund to support their request for employee wage and benefit adjustments and authorize the execution of the necessary documents. AYE: Warren, Shoemate, Hanna, Drewry, Burk, Haywood. NAY: None. MOTION CARRIED

24. Consider an ordinance amending Section 17-1-1-102, Division 17-1-1, Article 17-1, Chapter 17, Lawton City Code, 2005, by amending the definition of Shift Employee, providing for severability and declaring an emergency. Exhibits: Ordinance 09-__.

Jensen stated the background for this item has an error. In the background, the third line from the bottom should read the hours after 5:00 p.m. and before 5:00 a.m. these employees do the majority of their work and therefore are entitled to shift differential pay. He stated the reason staff has recommended this change is because we now have a general employees union and under the current provisions that we have, they don't get the 5% differential pay. That was never intended, so this is just cleaning that up so that they do in fact get it. He stated this also makes it clear that an introductory employee does not get this differential pay until they have passed probation.

Mayor Purcell clarified that the ordinance is correct, but the commentary was incorrect.

MOVED by Warren, SECOND by Haywood, to adopt **Ordinance 09-04** waive the reading of the ordinance, read the title only, and declaring an emergency. AYE: Haywood, Warren, Shoemate, Hanna, Drewry, Burk. NAY: None. MOTION CARRIED

An ordinance pertaining to personnel policy and procedures amending Section 17-1-1-102, Division 17-1-1, Article 17-1, Chapter 17, Lawton City Code, 2005, by further defining what a "shift employee" is for the City of Lawton, providing for severability, and declaring an emergency.

25. Consider adopting an ordinance notifying the public of the publication of Supplement No. 4 to the Lawton City Code, 2005, and declaring an emergency. Exhibits: Ordinance 09-__.

Jensen stated every year at the end of the year the City Attorney's office is required to compile the ordinances from that previous year into a supplement so that the City Code books can be updated. The recommended price for the supplement is \$25 per publication.

MOVED by Haywood, SECOND by Hanna, to adopt **Ordinance 09-05** waive the reading of the ordinance, read the title only, and declaring an emergency. AYE: Warren, Shoemate, Hanna, Drewry, Burk, Haywood. NAY: None. MOTION CARRIED

An ordinance approving supplement no. 4 to the Lawton City Code, 2005, directing filing and notification of the publication of supplement No. 4 to the Lawton City Code 2005, and establishing a fee for the sale of supplement No. 4 in the amount of \$25, and declaring an emergency.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Shoemate commended city crews on the work they have done clearing the streets. He suggested that everyone get out and support the Lawton Fort-Sill Calvary basketball team.

Drewry congratulated those who graduated from the police academy. She reported that the Salvation Army shelters were full and all of the new beds were being used. She stated they also needed food products and Country Mart came to the rescue and provided all the food they needed. She stated Assurant also came forward to help. She is very proud of our community.

Shanklin questioned if we were promoting a sales tax for the schools.

Mayor Purcell stated no. There is a group led by Mr. Beauchamp called the LEAP committee and they are having all of the discussion on the issue. He stated they are planning to do this as an advalorem tax.

Mitchell distributed the schedule for the upcoming budget meetings.

The Mayor and Council convened in executive session at 6:36 p.m. and reconvened in regular, open session at 6:58 p.m. Roll call reflected all members present.

BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

26. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the continued employment of Michael Corrales as Municipal Judge, and in open session, consider approving an Employment Agreement with Michael Corrales as Municipal Judge and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Employment Agreement Summary. Proposed Employment Agreement is on file in the City Clerk's Office.

Jensen read the title of item 26.

MOVED by Hanna, SECOND by Drewry, to rehire Michael Corrales as the Municipal Judge for a period of two years with no increase in salary and all benefits to remain the same. AYE: Drewry, Burk, Shanklin, Haywood, Warren, Shoemate, Hanna. NAY: None. MOTION CARRIED

27. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending case of City of Lawton vs. Bob L. Mansell, et. al, CJ-2007-822, and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item 27. No action is required.

There being no further business to consider, the meeting adjourned at 7:01 p.m. upon motion, second and roll call vote.

/s/ John P. Purcell, Jr.
JOHN P. PURCELL, JR., MAYOR

ATTEST:

Traci Hushbeck
TRACI HUSHBECK, CITY CLERK